COURT FEE भारत INDIA TEN RUPEES CANCELLED

(3)

(1)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1239 **/2003 (S.B.)**

PETITIONER : Smt. Alpana Gupta, aged about 50 years, widow of Shri Shrikant Gupta, Starch Factory, Mandsaur, Tah. & Dist. : Mandsaur (M.P.)

VERSUS

RESPONDENTS

1. Subodh Kumar Gupta, aged about 60 years, son of Late Shri Rajaram Gupta, resident of Kothi No. 17, Sector 4, Chandigarh (Punjab)

2. Shri K.K. Jindal, aged about 65 years, son of Shri Ram Kumar Jindal, resident of 55, Dashera Maidan, Ujjain (M.P.)

3.A. Smt. Saraswati Devi Gupta, aged about 75 years, widow of Shri Rajaram Gupta, resident of Starch Factory,Mandsaur, Tah. & Dist. : Mandsaur (M.P.)

B. Smt. Prabha Agarwal, aged about 52 years, wife of Brajesh Kumar Agarwal, resident of 35, D. Chintamani Road, Civil Line, Allahabad (U.P.)

C. Smt. Manju Agarwal, aged about 50 years, wife of Shri B. K. Agrawal, resident of 22, Nehru Nagar, Bhilai, Dist : Durg (C.G.)

4. Suryakant Gupta, aged about 58 years, son of Late Shri Rajaram Gupta,resident of Lal Bag, Tah. & Dist. ; Rajnandgaon (C.G.)

5. Smt. Rakhi Gupta, aged about 28 years,

6. Ku. Pooja Gupta, aged about 26 years

7. Ku. Mukta Gupta, aged about 24 years

(No. 5 to 7 all resident of Starch Factory, Mandsaur, Tah. & Dist.: Mandsaur (M.P.)

8. Nitin Kumar Gupta, aged about 27 years, s/o. Shri Suryakant Gupta, resident of Lal Bag, Tah. & Dist.: Rajnandgaon (C.G.)

P. R. No. ... Presented by Shri Ashish Kumar Mishra on ... 10.04.03 ...

शपथ आयुक्त
एम. के. शुक्ला
बिलासपुर (छ.ग.)
10/4/03

(4)

(2)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

A.F.R. (267)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.1239 OF 2003

PETITIONER: Smt. Alpana Gupta

Versus

RESPONDENTS: Subodh Kumar Gupta and 09 others

AND

WRIT PETITION NO.1240 OF 2003

PETITIONER: Suryakant Gupta

Versus

RESPONDENTS: Smt. Saraswati Devi Gupta and 09 others

POST FOR ORDER ON 16th OCTOBER, 2003

Sd/-
L.C.BHADOO
Judge

15TH October 2003

(268)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.1239 OF 2003

PETITIONER: Smt. Alpana Gupta

Versus

RESPONDENTS: Subodh Kumar Gupta and 09 others

AND

WRIT PETITION NO.1240 OF 2003

PETITIONER: Suryakant Gupta

Versus

RESPONDENTS: Smt. Saraswati Devi Gupta and 09 others

Present: -

Shri P.K.C. Tiwari with
Shri M.L. Bachawat, Advocates: For the petitioners

Shri Sanjay K. Agrawal with
Shri Pratik Sinha Advocates: For respondents 1, 3(A), 3 (B) & 3 (C) in W.P.No.1239/2003 and respondents 1 (A), 1 (B), 3 & 4 in W.P.No.1240/2003

Before: Hon'ble Shri L.C. Bhadoo, J

ORDER

(Passed on 16th October, 2003)

1. Writ Petition No.1240 of 2003 has been filed by Suryakant Gupta, questioning the legality and propriety of order dated 2nd January, 2001, passed by the District Judge, Rajnandgaon, in Civil Suit No.18-A/93 {Suryakant Gupta vs. Smt. Saraswati Devi Gupta & others}. Similarly, Writ Petition No.1239 of 2003 has been filed by Smt. Alpana Gupta, widow of Shrikant Gupta, questioning the legality and propriety of order dated 2nd January, 2001 passed by the District

Judge, Rajnandgaon, in Civil Suit No.4-A/95 (Smt. Alpana Gupta vs. Subodh Kumar Gupta & others). Both these writ petitions are arising out of orders dated 2nd January, 2001, passed by the District Judge, Rajnandgaon in the above mentioned two civil suits by which the learned District Judge allowed the application of Subodh Kumar Gupta, defendant in both the suits, under Order 1 Rule 10 of the Code of Civil Procedure and directed the above mentioned petitioners/plaintiffs in the above suits to add the names of (i) Smt. Neelam Gupta, W/o Subodh Kumar Gupta; (ii) Smt. Reena Gupta; (iii) Smt. Rashi Gupta; (iv) Miss Neeti Gupta, daughters of Subodh Kumar Gupta and also (v) Subodh Kumar Rajaram HUF, in the array of defendants. Since both the writ petitions are questioning the same order even though passed in different suits and similar point of law is involved in both the petitions, they are being disposed of by this common order.

2. In order to appreciate the point involved in these matters, it is beneficial to mention brief facts leading to filing of these writ petitions. Petitioner Suryakant Gupta in W.P.No.1240 of 2003; Late Shrikant Gupta, husband of Smt. Alpana Gupta, the petitioner in W.P. No.1239/2003; and Subodh Kumar Gupta, one of the respondents in both the petitions, are the real brothers who are the sons of Late Rajaram Gupta. M/s. Rajaram Maize Products, Rajnandgaon, was a partnership firm registered under the Indian Partnership Act, 1932, constituted vide deed of partnership dated 01.07.1988 of which (i) Late Rajaram Gupta; (ii) Subodh Kumar Gupta, one of the respondents in both the petitions; (iii) Suryakant Gupta, the petitioner in W.P. No.1240/2003; (iv) Late Shrikant Gupta; and (v) Smt. Prabha Agarwal were the partners. Similarly, there was one another partnership firm namely, M/s. Rajaram & Brothers, Mandsaur which was also a registered partnership firm, constituted

by a deed of partnership dated 13.08.1989 and registered under the Indian Partnership Act, 1932. The partners of the firm were (i) Late Rajaram Gupta; (ii) Subodh Kumar Gupta; (iii) Suryakant Gupta; (iv) Late Shrikant Gupta; and (v) K.K. Jindal, brother of Late Rajaram Gupta.

3. According to the petitioners, some disputes arose amongst the partners of the aforesaid two partnership firms and in order to resolve the disputes, a meeting of the partners took place at Bhilai on 26.11.1992 and in that meeting an agreement (Annexure P-2) was drawn up for dissolution of partnership firms and for distribution of its assets and various businesses amongst the partners as recorded in the agreement (Annexure P-2). Alleging the said agreement dated 26.11.1992 being void since material facts were suppressed by Suryakant Gupta & Shrikant Gupta and the accounts were not settled within the period of one month as mentioned in the agreement (Annexure P-2) that certain assets owned by the firms were not included in the agreement rendering the agreement void and unenforceable in law, Subodh Kumar Gupta instituted a suit before the Court of Senior Judge, Chandigarh for dissolution and rendition of accounts of the partnership firm M/s. Rajaram & Brothers. A preliminary objection was raised by Shrikant Gupta that the Court at Chandigarh had no jurisdiction to try and decide the suit. The trial Court dismissed the application against which a revision was filed and vide order dated 08.08.1993, the High Court of Punjab & Haryana set aside the order finding that the Chandigarh Court had no territorial jurisdiction as any part of cause of action had not arisen within the territorial jurisdiction of that Court. Against the order of the High Court of Punjab & Haryana, Subodh Kumar Gupta filed S.L.P.No.10301 of 1993 which was dismissed by the Hon'ble Apex Court vide its order dated 19.08.1993 observing that "Unless this

agreement is set aside there is no question of the Chandigarh Court entertaining a suit for dissolution of the partnership and rendition of accounts. The petitioner cannot wish away the agreement by merely stating that it is a void document. He cannot rest content by alleging that the document has no efficacy in law and must, therefore, be ignored".

4. As per the allegations of Suryakant Gupta, Subodh Kumar Gupta started creating interference in the business and affairs of Suryakant Gupta's proprietary firm M/s. Rajaram Maize Products, Rajnandgaon. Suryakant Gupta filed a suit on 16.07.1993 for declaration and injunction with the averments that after execution of the agreement dated 26.11.1992 (Annexure P-2), the business of M/s. Rajaram Maize Products, Rajnandgaon fell into his share and thereafter, he is doing his business and during the pendency of the suit, Rajaram Gupta died on 15.01.1996 and during the life time, Rajaram Gupta on 26.10.1995 through a registered 'will' bequeathed the whole property of M/s. Rajaram Maize Products in favour of Suryakant Gupta. The suit of the petitioner (Suryakant Gupta) is that after the agreement dated 26.11.1992 and moreover after the execution of 'will' dated 26.10.1995 by Late Rajaram Gupta in favour of the plaintiff/petitioner, defendant Subodh Kumar Gupta has no right to interfere in the plaintiff's business of M/s. Rajaram Maize Products, the sole proprietary firm of plaintiff Suryakant Gupta. Defendant Subodh Kumar Gupta is creating interference in the business of the plaintiff's firm and he is threatening and creating hindrance in the business of the plaintiff's firm. He is not allowing the employees of the plaintiff to work peacefully and he is bent upon to create disturbance in the business of the plaintiff. Ultimately, plaintiff Suryakant Gupta sought a declaration that the firm, M/s. Rajaram Maize Products, is the sole proprietary firm of the plaintiff

and defendant Subodh Kumar Gupta has no right to create any interference in the business and affairs of that firm therefore, he be restrained by a permanent injunction not to create any interference in the affairs and business of the said firm.

5. Similarly, a suit was filed by Smt. Alpana Gupta, widow of Shrikant Gupta on the same ground that vide document dated 26.11.1992, a settlement took place between the partners of the firm M/s. Rajaram & Brothers and according to that document Subodh Kumar Gupta retired from the partnership of the firm M/s. Rajaram & Brothers, Mandsaur and after the dissolution of the firm on 26.11.1992, the plaintiff and defendants 3 & 4 namely, Smt. Saraswati Devi & Suryakant Gupta, respectively have re-entered into the partnership firm on 24.02.1993 and started the business of Starch, Glucose, Dextrose, Mono Hydrate Dextrose, Anhydrous and Solbitol, but defendant No.1 Subodh Kumar Gupta had started creating interference in the business and affairs of that firm and he is not allowing the firm to operate the bank accounts. Defendant No.1 Subodh Kumar Gupta and defendant No.2 Krishna Kumar Gupta are not connected with the firm M/s. Rajaram & Brothers and they have no right to interfere in the business of the plaintiff's firm. Therefore, by an order of permanent injunction they be restrained not to interfere in the affairs and business of the firm.

6. In both the above suits, the respondent herein namely, Subodh Kumar Gupta filed a written statement in which he has alleged that the agreement dated 26.11.1992 is void as the material facts were suppressed by Suryakant Gupta & Shrikant Gupta and even the accounts were not settled within the period of one month as per the agreement dated 26.11.1992 and further that certain assets owned by the firms were not included in the agreement rendering the agreement void and unenforceable in law. He has filed a counter

claim alleging that a fraud was acted upon him therefore, the agreement dated 26.11.1992 is void. During the pendency of these suits, in both the suits the plaintiffs had filed an application under Order 1 Rule 10 of the C.P.C. in the year 1998 for impleading Smt. Neelam Gupta, Smt. Reena Gupta, Smt. Rashi Gupta, Miss Neeti Gupta and Subodh Kumar Rajaram HUF as defendants. But, later on those applications were not pressed by the plaintiffs in both the suits. In spite of the objection by Subodh Kumar Gupta that application for impleadment cannot be allowed to be withdrawn, these applications were dismissed by the Court. Further, after dismissing of those applications, Subodh Kumar Gupta, being defendant in both the suits, filed application in both the suits under Order 1 Rule 10 of the C.P.C. for adding the above mentioned persons as defendants in the suits which was opposed by the plaintiffs on the ground that they are neither necessary party nor they are proper party, therefore, the applications be rejected. However, after hearing the parties, the learned District Judge allowed the applications in both the suits by the impugned orders dated 02.01.2001.

7. I have heard Mr. P.K.C. Tiwari with Mr. M.L. Bachawat, Advocates for the petitioners and Mr. Sanjay K. Agrawal with Mr. Pratik Sinha, Advocates on behalf of respondents 1 (A), 1 (B), 3 & 4 in W.P. No.1240/2003 and on behalf of respondents 1, 3 (A), 3 (B) & 3 (C) in W.P.No.1239/2003.

8. Learned counsel for the petitioners argued that the plaintiffs being the dominus litis should have not been directed by the learned District Judge to implead the persons as defendants against their wishes. He further argued that all the persons who have been directed to be impleaded as defendants are the daughters and wife of Subodh Kumar Gupta and they are all majors and they have not /

themselves come forward showing their interest in the matter. Therefore, the trial Court ought not to have allowed the application of Subodh Kumar Gupta for adding them as defendants. Moreover, the perusal of the impugned orders reveal that the learned District Judge has not assigned any reason whatsoever, that as to how these persons to whom he has directed to add as defendants are necessary parties or proper parties. Therefore, the impugned order be quashed.

9. On the other hand, Mr. Sanjay K. Agrawal, the learned counsel for the respondents argued that the plaintiffs themselves filed the application to implead these persons as defendants based on the agreement dated 26.11.1992 and letter dated 28.01.93 of Rajaram Gupta. Much emphasis was laid by the learned counsel on para 4 of the said application in which the plaintiff mentioned about the fact of writing of the letter dated 28.01.1993 by Rajaram Gupta in which it was mentioned that "a chart of valuation of various assets to be transferred to you after finalization of the account, as derived by Mr. Sagarmal Jain, is also enclosed hereto. As per this chart after adjusting all your and your family member's dues from Mandsaur and Rajnandgaon Units, a sum of Rs.1,43,533.00 is due from you". Therefore, the learned counsel for the respondents argued that in view of the fact that some dues of Smt. Neelam Gupta, Smt. Reena Gupta, Smt. Rashi Gupta, Miss Neeti Gupta and Subodh Kumar Rajaram HUF were pending against these firms which are to be settled; therefore, these persons are necessary party in the above suits.

10. The law on the point as provided in Order 1 Rule 10 (2) of the C.P.C. envisages that "the Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of

any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added".

11. The Hon'ble Apex Court in the case of **Udit Narain Singh Malpaharia vs. Additional Member Board of Revenue, Bihar and another** reported in **AIR 1963 SC 786** laid down that "a necessary party is one without whom no order can be made effectively; a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding".

12. In the case of **Ramesh Hirachand Kundanmal vs. Municipal Corporation of Greater Bombay and others** reported in **(1992) 2 SCC 524**, the Hon'ble Supreme Court has held that in the matter of addition of necessary parties the Court has the judicial discretion which it has to exercise looking at the facts and circumstances of the case. In exercise of its discretion the Court can direct the plaintiff though dominus litis to implead the person as a necessary party. Their Lordships, elaborating the same in paragraph 8 expressed as under:-

> "8. The case really turns on the true construction of the rule in particular the meaning of the words "whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit." The Court is empowered to join a person whose presence is necessary for the prescribed purpose and not under the rule direct the addition of a person whose presence is not necessary for that purpose. If the intervener has a cause of action against the plaintiff relating to the subject-matter of the existing action, the Court has power to join the intervener so as to give effect to the primary object of the order which is to avoid multiplicity of action."

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13. In another case i.e. **Razia Begum vs. Sahebzadi Anwar Begum and others** reported in **AIR 1958 SC 886**, the Hon'ble Apex Court laid down that,

> "The question of addition of parties under R. 10 of O. 1 of the Code of Civil Procedure, is generally not one of initial jurisdiction of the Court, but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case, but in some cases, it may raise controversies as to the power of the Court, in contradiction to its inherent jurisdiction, or, in other words, of jurisdiction in the limited sense in which it is used in S. 115 of the Code. In a suit relating to property, in order that a person may be added as a party, he should have a direct interest as distinguished from a commercial interest, in the subject-matter of litigation....."

14. Similarly, in another case i.e. **Savitri Devi vs. District Judge, Gorakhpur and others** reported in **AIR 1999 SC 976** their Lordships of the Apex Court distinguished the rulings laid down in the case of **Surjit Singh vs. Harbans Singh** reported in **(1995) 6 SCC 50** and held that purchasers are necessary parties to the suit and their impleadment is necessary for deciding questions whether sales were committed in contempt and disregard of injunction whether purchasers were bona fide transferees. In another matter, the High Court of Delhi in the case of **Siddharth Kumar Modi and others vs. Jagjit Singh Bindra** reported in **AIR 1984 Delhi 116** held that "in a suit between partners for dissolution of firm and rendition of accounts a creditor of the firm is neither a necessary nor a property party and therefore, he cannot be added as a defendant. Sections 26, 27 and 45 of the Partnership Act only make clear that the partners of the firm would be liable to the creditor, but they do not enable him to be added as a defendant to the suit for dissolution and accounts between the partners."

15. In view of the above laws laid down by the Hon'ble Apex Court that Court has the judicial discretion to exercise in the matter under

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Order 1 Rule 10 (2) of the C.P.C. looking to the facts and circumstances of each case and while exercising the discretion, the Court is required to see that as to whether the person or persons who are to be added as party in the matter, their presence before Court is necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the question involved in the suit and that those persons has cause of action against the plaintiff relating to the subject-matter of the existing action, if we look into the facts of the present case that prior to 1992, there were two partnership firms of which defendant Subodh Kumar Gupta and his brothers namely, plaintiffs Suryakant Gupta & Late Shrikant Gupta and their father Late Rajaram Gupta with Smt. Prabha Agarwal in one firm and with K.K. Jindal in another firm were partners and the plaintiff's case in both the suits is that those firms were dissolved under an agreement dated 26.11.1992 and later on, two firms were constituted by Late Rajaram Gupta, Suryakant Gupta and Late Shrikant Gupta at Rajnandgaon and Mandsaur in which defendant Subodh Kumar Gupta was not a partner. The further case of the plaintiffs is that Subodh Kumar Gupta is now creating unnecessary interference and hindrance in the business of the plaintiffs firms without any reason or rhyme and without any right. Therefore, he be restrained by way of permanent injunction not to create such interference. In one suit, Suryakant Gupta has also sought declaration that defendant Subodh Kumar Gupta has no right to cause interference in the business and affairs of M/s. Rajaram Maize Products, Rajnandgaon. It has no where been mentioned that Smt. Neelam Gupta, wife of Subodh Kumar Gupta; Smt. Reena Gupta, Smt. Rashi Gupta, Miss Neeti Gupta, daughters of Subodh Kumar Gupta and Subodh Kumar Rajaram HUF, son of Subodh Kumar Gupta were ever the partners in those firms. Only case of these persons is that any point of time these persons invested certain amount in the

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old firms and for that they are entitled to receive back. The plaintiffs have not sought any relief against these persons alleging that they are creating any interference in their business. If any amount of these persons is due against old firms, they are at liberty to file a separate suit for recovery of the said amount and in these civil suits of declarations and injunctions these persons are not at all necessary or proper parties as neither their presence is required in these suits in any way to decide these suits effectually and completely and settle the dispute between the parties and to make an effective order in these suits nor their presence is necessary for complete and final decision on the question involved in the suits.

16. The simple issue in these suits is that defendant Subodh Kumar Gupta is causing interference in the business and affairs of the plaintiffs firms. Even the daughters and the wife of defendant Subodh Kumar Gupta had filed a petition before the National Consumer Disputes Redressal Commission for directing the firms to repay their amount which was invested by them in the firms. The National Consumer Disputes Redressal Commission, however, dismissed their applications and observed, "we should not entertain this complaint as a consumer dispute". It was further observed by the Commission in page 5 of the order that "It will be open to the complainants to seek this relief from Courts where the partnership suits are pending." In the first instance, they have not approached the District Court for making them party, they all are majors and in the second place as has been mentioned that the plaintiffs have filed the declaration and injunction suits in which these persons were not members of the partnership firm. Their claim is only about certain deposits made by them in these firms and there is no dispute in the suits regarding deposits, if any, made by these parties. Therefore, they are neither necessary nor proper party in the suits before the

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District Judge, Rajnandgaon. Moreover, the above observation of the National Consumer Disputes Redressal Commission is merely a passing remark; while making these observations, the Commission was not aware about the nature of these suits and about the dispute and question involved in these suits. The dispute is mainly between the old partners. Moreover, perusal of the impugned orders reveals that the learned District Judge has not assigned any reason as to how these persons are necessary or proper party in the matter. The applications made by the plaintiffs in suits for adding these persons as defendants, which were later on withdrawn does not create any right in favour of defendants to add these persons as defendants, even if they are not necessary parties in the suits. Therefore, the order of the learned District Judge is erroneous, illegal and without jurisdiction.

17. Learned counsel for the respondents argued that under Article 227 of the Constitution of India, this Court has very limited jurisdiction and cannot pass order as an appellate Court, therefore, cannot interfere with the discretionary order passed by the trial Court. He placed reliance on the judgment of the Hon'ble Apex Court in the cases of **Surya Dev Rai vs. Ram Chander Rai and others** reported in **2003 AIR SCW 3872** and **State, through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others** reported in **JT 2003 (4) SC 605**. In the case of **State, through Special Cell, New Delhi** (*supra*), the Hon'ble Apex Court has held that

> "The law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can

be used to interfere even with an interlocutory order. It is settle law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate Courts and Tribunal's within the bounds of their authority and not to correct mere errors."

In the case of **Surya Dev Rai (*supra*)**, the Hon'ble Apex Court has held that

> "Under Article 227 of the Constitution of India, the writ of certiorari is an exercise of its original jurisdiction by the High Court; exercise of supervisory jurisdiction is not an original jurisdiction and in this sense it is akin to appellate revisional or corrective jurisdiction. In exercise of supervisory jurisdiction the High Court may not only quash or set aside the impugned proceedings, judgment or order but it may also make such directions as the facts and circumstances of the case may warrant, may be by way of guiding the inferior Court or Tribunal as to the manner in which it would now proceed further or afresh as commended to or guided by the High Court. In appropriate cases the High Court, while exercising supervisory jurisdiction may substitute such a decision of its own in place of the impugned decision, as the inferior Court or Tribunal should have made. Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate Courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does not have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction."

18. In view of the above principles laid down by the Hon'ble Apex Court in the matter of exercise of the powers under Article 227 of the Constitution of India by the High Court, if we look into the facts of the present case, the learned District Judge has exercised the power under Order 1 Rule 10 (2) of the C.P.C. in a manner not permitted by the law and caused failure of justice or grave injustice to the plaintiff. The learned District Judge has allowed the applications without assigning any reason what so ever, as to how the

persons to whom he has directed to be added as defendants are necessary party or proper party. The order of the learned District Judge is against the law and principles laid down by the Hon'ble Apex Court in the matter of allowing the applications for adding the party under Order 1 Rule 10 (2) of the C.P.C. because as discussed in the previous part of this order that the presence of these persons is not necessary in the suits in order to decide these suits effectually and completely as the dispute is among the partners of the firms and these persons were not partners in the firm, they claim only certain amount against the firms, therefore, they are not necessary parties to the suit and in this connection I am fortified by the decision of Delhi High Court in the case of **Siddharth Kumar Modi (*supra*)**.

19. In the result, both the writ petitions deserve to be allowed for the foregoing reasons and the same are allowed. The impugned orders dated 2nd January, 2001, passed by the learned District Judge in the above mentioned civil suits, allowing the applications of the defendant for adding Smt. Neelam Gupta; Smt. Reena Gupta; Smt. Rashi Gupta; Miss Neeti Gupta; and Subodh Kumar Rajaram HUF as defendants are set aside and quashed.

Sd/-
L.C.BHADOO
Judge

Soma